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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,154	08/03/2000	Dave Leahy	17376-5-IUS	1133

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GENERAL PATENT CORPORATION INTERNATIONAL  
75 MONTEBELLO ROAD  
SUFFERN, NY 10901

EXAMINER

NGUYEN, CAO H

ART UNIT PAPER NUMBER

2173

23

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/632,154**

Applicant(s)  
**Leahy et al.**

Examiner  
**Cao (Kevin) Nguyen**

Art Unit  
**2173**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 6, 2004
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-8 and 15-25 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-8 and 15-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Request for Continued Examination (RCE)*

1. The request filed on 10/09/03 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/632,154 is acceptable and a RCE has been established. An action on the RCE follows.

### *Claim Rejections--35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 4-8 and 15-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiio (US Patent No. 5,491,743) in view of COPYRIGHT February 14, 1996 Newsbytes Inc.

Regarding claim 4, Shiio discloses a method for enabling a first user to interact with other users in a virtual space, wherein the first user and the other users each have an avatar and a client process associated therewith, and wherein each client process is in communication with a server process, comprising: (a) receiving a position of at least some of the other users' avatars from the server process (animated characteristics representing operators in virtual conference; see col. 5, lines 16-62); however, Shiio fails to explicitly teach (b) determining from the received positions a subset of the other users' avatars that are to be displayed to the first user.

Newsbytes teaches determining from the received positions a subset of the other users' avatars that are to be displayed to the first user (avatar-guests and participation is limited, but other WorldAway subscribers can attend as "ghosts"; see page 1). It would have been obvious to one of an ordinary skill in the art at the time the invention was made to provide determining from the received positions a subset of the other users' avatars that are to be displayed to the first user as taught by Newsbytes to the virtual conference system of Shiio in order to promote personal, one-on-one type relationships which encourage a sense of community, most locales have limits to the number of avatars that can be physically present at one time.

Claim 5, differs from claim 4 in that "(a) receiving a position of at least some of the other users' avatars from the server process; and (b) determining, from the received positions, a set of the other users' avatars that are to be displayed to the first user, wherein steps (a) and (b) are

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formed by the client process associated with the first user.” which read on Newsbytes (see page 1).

Regarding claim 6, Shiio discloses a method for further comprising the steps of © monitoring an orientation of the first user's avatar; and (d) displaying the set of the other users' avatars from based on the orientation of the first user's avatar as monitored in step (c), wherein steps © and (d) are performed by the client process associated with the first user (see figures 4-5).

Regarding claim 7, Newsbytes discloses wherein step (a) further comprises (a)(1) receiving an orientation of at least some of the other users' avatars from the server process (see page 1).

Regarding claim 8, Shiio discloses wherein step (b) comprises (b)(1) determining from the received positions an actual number of the other users' avatars; (b)(2) determining a maximum number of the other users' avatars that can be displayed; and (b)(3) comparing the actual number to the maximum number to determine which of the other users' avatars are to be displayed, wherein steps (b)(1)-(b)(3) are performed by the client process associated with the first user (see col. 13, lines 14-67).

Claims 15 and 18 are differed from claims 1 in that “transmitting the positions of the first and second avatars by the first and second client processes, respectively, to the server process; (c) transmitting the positions of the first and second avatars, by the server process, to the second and first client processes, respectively; and (d) determining, by the second and first client

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processes, from the positions of the first and second avatars, respectively, whether to display the first and second avatars.” which read on Shiiio see col. 9, lines 1-60).

Regarding claims 16 and 17, Shiiio discloses (e) displaying the first and second avatars when it is determined in step (d) that the first and second avatars are to be displayed; and wherein step © comprises automatically sending the data indicating a position of the first and second avatars, by the server process, to the second and first client processes, respectively (see col. 6, lines 49-67 and col. 7, lines 1-21).

Regarding claim 19-20, Shiiio discloses wherein the step © comprises the step of automatically transmitting, by the server process to each client process, the positions of at least some of the avatars that are not associated with the client process (see col. 7, lines 15-62.)

Claims 21 and 22 differ from claims 1, 15 and 18 in that “synchronously disseminating to each of the client processes a packet of information updating a list of avatars display army the client process so that the client process can determine from the packet a set of avatars that are to be displayed” which read on Shiiio col. 10, lines 14-65 and figures 5-11).

Claim 23 differs from claim 15 in that “© the first client process is operable to the positions of the avatars associated with at least some of the other users; and 2. determine from the received positions a set of the other users' avatars that are to be displayed.” which read on Shiiio (see col. 14, lines 42-67).

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As claims 24 and 25 are analyzed as previously discussed with respect to claims 5 and 8 above.

*Response to Arguments*

4. Applicant's arguments filed on 10/21/03 have been fully considered but they are not persuasive.

Accordingly, the claimed invention as represented in the claims do not represent a patentable distinction over the art of record as discussed as above.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (PTO-892).

*Response*

6. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 308-9051 may be used for formal communications or (703) 305-9724 for informal or draft communications.

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Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

*Inquires*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (703) 305-3972. The examiner can normally be reached on Monday-Friday from 8:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca, can be reached on (703) 308-3116. The fax number for this group is (703) 308-6606.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

  
CAO (KEVIN) NGUYEN  
PRIMARY EXAMINER

March 21, 2004